

26 May 1976

SUMMARY OF CENTRAL INTELLIGENCE AGENCY PROBLEMS  
INVOLVED IN DESTRUCTION OR RETENTION  
OF IMPROPERLY ACCUMULATED DOCUMENTS OR RECORDS

Subject documents and records may involve Category I activities, defined as cases where positive harm was done to individuals, such as action causing a man to lose his job, and Category II activities, where the wrong was the mere improper creation or holding of a file containing information on an American. The Agency considers that it has no records pertaining to Category I.

No Agency records have been destroyed since 28 January 1975. This moratorium on destruction was based on a joint request of Senators Mansfield and Scott on 27 January 1975. Chairwoman Abzug, on 24 February 1976, requested that our moratorium be extended until the Congress has had an opportunity to act on legislation dealing with this matter. In response to her request, the Director advised Mrs. Abzug that the moratorium would be the subject of discussion by the Agency with Senators Mansfield and Scott, and that destruction of Agency material would be in accordance with Presidential directives and as permitted by law.

For purposes of the moratorium, the records under question fall into two basic groups. The first is routine Agency records, unrelated to allegedly improper activities by the Agency. Approximately nine thousand cubic feet of such records have accumulated during the moratorium and will be destroyed as soon as possible upon the lifting of the moratorium. We are working on records destruction schedules for submission to the National Archives and Records Service in order to receive destruction authorization from the Archivist in accordance with 44 U.S.C. Chapter 33. The second group consists of special files whose creation and retention is considered questionable. These are files on American citizens and are the ones which would be the subject of any additional self-imposed moratorium.

In the second group we have identified 17 kinds of questionable files on Americans which we believe can be destroyed in their entirety when all moratoriums have been lifted. These include such subjects as District of Columbia demonstrators, files on extremists compiled by an Office of Security Regional Office, data on former employees who have authored publications divulging classified information and files on individuals well known at the time of compilation for anti-U.S. broadcasts and other activities abroad. However, the preponderance of such

OGC Has Reviewed

files on Americans must be retained for the time being because of matters in litigation and criminal investigations being conducted by the Department of Justice. These include all files involving the mail operation, CHAOS, and assassinations. Probably some files on dissident groups will have to be retained for the same reasons. Our review indicates that these files which must be retained probably amount to about ninety percent of our files on Americans which would otherwise be destroyed upon lifting of the moratorium. This figure, of course, excludes the nine thousand cubic feet of routine files.

We have been working with the National Archives and Records Service in preparation for destruction of the improperly held files. The procedures have been worked out and NARS will "walk through" our file destruction schedules when we request authority to destroy, in order to grant that authority with dispatch.

To summarize then, a short, additional, self-imposed moratorium on destruction of improperly accumulated files for perhaps 60 to 90 days, and certainly not beyond the end of the calendar year, will affect only an insignificant proportion of such records. It should not apply to routine records properly created in the ordinary course of business. While the announcement of such a moratorium might induce a flood of new inquiries and particularly FOI requests, this is by no means certain. There is also the possibility of attempts to get restraining orders to enjoin destruction, but it would seem that anybody that seriously concerned would have recognized that destruction might occur soon and would have already taken steps to try to stop it. Of course, there is also the possibility of another attempt by Mrs. Abzug or others to get legislation relating to the files and notification of the subjects. We think these problems are largely offset because very few files will be destroyed for quite some time in any case. The self-imposed moratorium, with public notice, is a good-faith alternative, recognizing the rights of citizens to question the Government about actions it may have taken involving them and should also help to blunt criticism which is almost certain to come in any case when we finally do destroy records which we should not have created in the first place.

STATINTL

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Acting General Counsel, CIA

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